

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

MONDAY, NOVEMBER 30, 2009

H033843 PEOPLE v. RABALAIS

The abstract of judgment is ordered modified by reducing both the restitution fund (Pen. Code, § 1202.4 subd.(b)) and suspended parole revocation (Pen. Code, § 1202.45) fines from \$1,200 to \$600. As so modified, the judgment is affirmed. The clerk of the superior court shall forward a copy of the modified abstract to the Department of Corrections and Rehabilitation.

(not published)

(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed November 30, 2009

H031532 PEOPLE v. KANDA

The judgment is reversed with directions as follows: If the District Attorney does not elect to retry the murder charge and enhancement allegation to that charge within 60 days after the filing of the remittitur in the trial court pursuant to section 1382, subdivision 2—unless time is waived by defendant—the trial court shall proceed as if the remittitur constituted a modification of the judgment to reflect convictions for (1) voluntary manslaughter (§ 192) with an enhancement for personal use of a firearm (§ 12022.5) and (2) assault with a firearm (§ 245, subd. (a)(2)) with an enhancement for personal use of a firearm (§ 12022.5), and shall resentence defendant accordingly.

(E.g., *People v. Edwards*, *supra*, 39 Cal.3d at p. 118 [similar disposition]; *People v. Woods* (1992) 8 Cal.App.4th 1570, 1596 [same]; *People v. Garcia* (1972) 27 Cal.App.3d 639, 648 [same].)(not published)

(Rushing, P.J.; I concur: Premo, J.; Concurring opinion by: Bamattre-Manoukian, J.)

Filed November 30, 2009

H033572 PEOPLE v. MILLER

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed November 30, 2009

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

Monday, November 30, 2009 (continued)

H033265 PEOPLE v. SINGH

The abstract of judgment is ordered modified by striking the Penal Code section 667.5, subdivision (b) enhancement. As so modified, the judgment is affirmed. The clerk of the superior court shall forward a copy of the modified abstract to the Department of Corrections and Rehabilitation. (not published) (Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed November 30, 2009

H034223 In re L.A.; SANTA CRUZ COUNTY HUMAN SERVICES DEPARTMENT v. S.V.

The appeal is dismissed as abandoned. (not published) (Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed November 30, 2009

TUESDAY, DECEMBER 1, 2009

H033189 PEOPLE v. QUEZADA

The order of probation is affirmed. (not published) (Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed December 1, 2009

H033966 PEOPLE v. CABRERA

The superior court's order denying defendant's petition for writ of error *coram nobis* is affirmed. (not published) (Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed December 1, 2009

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Elia, J.; Rushing, P.J.; Premo, J.; and LaNae Brooks, Deputy Clerk.

H032412 PEOPLE v. CARRANCO

Cause called and argued by Victoria H. Stafford appearing for Appellant and by Amy Haddix, Deputy Attorney General, appearing for Appellant. Cause ordered submitted.

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

Tuesday, December 1, 2009 (continued)

H034441 JASMINE NETWORKS v. SUPERIOR COURT

Cause called and argued by Chris Sullivan appearing for Petitioner and by Steven Mark Bauer appearing for Respondent and by Stephen S. Wu appearing for Real Parties in Interest. Cause ordered submitted.

H034315 In re B.A., et al.; MONTEREY CO. D.S.E.S. v. M.A.

Cause called and argued by Jacob I. Olson appearing for Appellant and by William K. Rentz, Deputy County Counsel, appearing for Respondent. Cause ordered submitted.

H033546 SHEPARDSON, et al. v. MITCHELL

Cause called and argued by John A. Shepardson appearing for Appellants. No appearance is made on behalf of respondent. Cause ordered submitted.

H034058 WALTON v. MUELLER

Cause called and argued by Robert Joseph Yorrio appearing for Appellant and by Timothy James Walton appearing for Respondent. Cause ordered submitted. Court is adjourned.

H032764 PEOPLE v. CAMACHO

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 1, 2009

*Before Rushing, P.J., Premo, J. and Elia, J.

WEDNESDAY, DECEMBER 2, 2009

H033380 PEOPLE v. RUIZ

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated November 24, 2009, is hereby vacated. The court has granted permission to file appellant's late request for oral argument. The cause will be resubmitted upon completion of oral argument.

Dated: December 2, 2009

Mihara, Acting P.J.

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

Wednesday, December 2, 2009 (continued)

H033422 PREDIWAVE CORPORATION, etc. v. SIMPSON THACHER & BARTLETT LLP, et al.

The order granting the special motion to strike the complaint is reversed. Costs on appeal are awarded to appellant. (published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed December 2, 2009

H034101 PEOPLE v. VERA

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Duffy, J.)

Filed December 2, 2009

THURSDAY, DECEMBER 3, 2009

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; McAdams, J.; Duffy, J.; and S. Nasson, Deputy Clerk.

H033145 ADEM, LLC, et al. v. GREWAL

Cause called and argued by Breck Milde appearing for Appellant and by James Lassart appearing for Respondents. Cause ordered submitted.

Rushing, P.J. and Duffy, J. leave the bench. Elia, Acting P.J. and Mihara, J. take the bench.

H033917 PEOPLE v. A.M.

Cause called and argued by Eric Heffelfinger appearing for Appellant and by Christina Vom Saal, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Elia, Acting P.J. leaves the bench. Bamattre-Manoukian, Acting P.J. takes the bench.

H033601 PEOPLE v. PALMENO

Cause called and argued by Jeffrey Glick appearing for Appellant and by John Deist, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

Thursday, December 3, 2009 (continued)

H033836 PEOPLE v. STOFFER

Cause called and argued by Ramiah Brien appearing for Appellant and by Christina Vom Saal, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Mihara, J. leaves the bench. Duffy, J. takes the bench.

H034021 PEOPLE v. KENNEDY

Cause called and argued by Daniel Barton appearing for Appellant and by Lisa Ashley-Ott, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court adjourns.

H033545 PEOPLE v. MALDONADO

By the Court:

Appellant's request to vacate submission is granted. The submission order dated November 20, 2009 is hereby vacated. The cause will be set for oral argument at a date and time to be determined. The cause will be resubmitted upon completion of oral argument.

Dated: December 3, 2009

Bamattre-Manoukian, Acting P.J.

H033618 PEOPLE v. SAMPRATH

By the Court*:

Appellant's petition for rehearing is denied.

Filed: December 3, 2009

*Before Rushing, P.J., Premo, J. and Elia, J.

H033757 PEOPLE v. J.N.

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed December 3, 2009

H033481 PEOPLE v. GUTKOWSKI

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed December 3, 2009

H033432 PEOPLE v. MASCHINO

The order appealed from is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed December 3, 2009

**In The Court Of Appeal Of The State Of California
Sixth Appellate District
San Jose, California**

FRIDAY, DECEMBER 4, 2009

The following cases are submitted this date:

H033720 In re J.V.; MONTEREY COUNTY DSES v. M.V.
H033114 PEOPLE v. GEE
H032690 PEOPLE v. BARKLEY
H034129 In re I.W., et al.; D.F.C.S. v. D.W.
H033997 PEOPLE v. VO
H034421 PEOPLE v. GARCIA
H034328 PEOPLE v. DOMINGUE
H033678 PEOPLE v. BRAVOPEDROZA
H033859 PEOPLE v. CASTILLO
H034242 In re J.N., et al.; D.F.C.S. v. E.N., et al.
H034234 PEOPLE v. SEABERRY
H034472 PEOPLE v. J.R.
H033934 PEOPLE v. MURPHY
H034004 PEOPLE v. LOPEZ
H033834 PEOPLE v. LEGASPI
H034109 PEOPLE v. RAMIREZ
H034272 THESING v. THESING
H033664 PEOPLE v. ANCISO
H033633 PEOPLE v. RIVERA
H034154 PEOPLE v. BARRETT

H032968, H033357 PEOPLE v. FLINDERS

We modify the judgment in case No. CC643776 by striking the order to pay attorney's fees. We modify the judgment in case No. CC892844 to reflect that the sentence on count two (transportation of a controlled substance) is stayed pursuant to section 654. The judgment in case No. CC892844 is also modified to reduce the restitution fine from \$1,200 to \$600, and the parole revocation fine from \$1,200 to \$600. The trial court is directed to prepare amended abstracts of judgment that reflect these modifications, and to forward certified copies of the amended abstracts to the Department of Corrections. As modified, the judgments are affirmed. (not published)
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed December 4, 2009